

2003 DRAFTING REQUEST

Bill

Received: 02/17/2004

Received By: rchampag

Wanted: Soon

Identical to LRB:

For: Shirley Krug (608) 266-5813

By/Representing: Sharon

This file may be shown to any legislator: NO

Drafter: rchampag

May Contact:

Addl. Drafters:

Subject: Employ Pub - employee benefits
 Employ Pub - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Krug@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Health insurance purchasing pools

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/1	rchampag 02/19/2004	jdye 02/20/2004 jdye 02/20/2004	rschluet 02/20/2004		sbasford 02/20/2004	lnorthro 02/24/2004	

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Page 2

FE Sent For:

<END>

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Received: **02/17/2004**

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For: **Shirley Krug (608) 266-5813**

By/Representing: **Sharon**

This file may be shown to any legislator: **NO**

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		jdye 02/20/2004					

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Page 2

FE Sent For:

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02/17/2004 12:24:43 PM

Page 1

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PJK

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/?	rchampag	1/2/20 jld					
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FE Sent For:

20
<END>

Miller, Steve

RAC

From: Little, Sharon
Sent: Tuesday, February 17, 2004 10:17 AM
To: Miller, Steve
Subject: drafting request



Health Insurance
Pools Optiona...

Hi Steve,

Thanks for getting the memo on health insurance purchasing pools pulled together so quickly. Shirley asked that a bill be drafted that would allow, as an option, not a mandate, to reflect the changes you suggest in your memo, page 2, paragraph 1.

Additionally, Shirley wants to make sure that employers would have to negotiate pooling with their employees, she doesn't want the employer to have sole discretion, in reference to page 2, paragraph 2.

I have attached her request. Please direct any correspondence to the Rep.Krug@legis.state.wi.us e-mail because I am using vacation sporadically and Brian can follow up if I'm not in the office. Thanks. Please call with any questions.

Sharon Little

Shirley Krug's Office
608-266-5813



Stephen R. Miller
Chief

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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Madison, WI 53701-2037
www.legis.state.wi.us/lrb/

Phone: (608) 267-2175
FAX: (608) 264-6948

Memorandum

To: Representative Shirley Krug
From: Steve Miller *SRM*
Date: February 13, 2004
Re: Health Insurance Purchasing Pools

Per your request, we have searched for impediments in state and federal law that would preclude different entities from joining together to form larger purchasing pools for the purpose of buying health care coverage on a permissive basis.

There are no statutory prohibitions against private employers (or other private entities) pooling together to purchase health insurance for their employees (or members). However, any law that relates to health insurance provided to an employer or to a particular type of employer, such as the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (incorporated into our statutes at ss. 632.745 to 632.7495) and requirements for insurance provided to small employers, would still apply and have to be complied with.

The federal Employee Retirement Income Security Act of 1973 (ERISA), which preempts the state from regulating self-funded health plans of a single employer or employee organization, such as a labor union, does not prohibit employers (or other entities) from pooling together for the purpose of jointly providing health care benefits to their employees or members. Under ERISA, however, two or more employers, called a "multiple employer welfare arrangement" (also commonly known as a "multiple employer trust") providing health benefits to the employees of the participating employers on a self-funded basis may be regulated by the state as if the employer group were an insurer. Thus, such an employer group would have to obtain a certificate of authority and maintain a sufficient level of reserves, in addition to complying with all insurance laws that apply to health insurance, such as the mandates. If the multiple employer welfare arrangement does not self-fund the benefits but purchases insurance, the insurer is subject to state insurance laws, as mentioned above. For more detailed information, you may obtain a publication of the U.S Department of Labor, "Multiple Employer Welfare Arrangements under ERISA," on the Internet at <http://www.dol.gov/ebsa/Publications/mewas.html>.

Representative Shirley Krug
February 13, 2004

Page 2

NOTE: make sure it's
only an option for GIB —
they don't have to take anyone

The Legislature would have to amend s. 40.51 (6) to allow any public or private employer to receive health care coverage in the pool with state employees, if the Group Insurance Board agreed. Currently, state employees are in a separate insurance pool. The Legislature would also have to specifically authorize the Group Insurance Board under s. 40.03 (6) to join with any other employer to provide health care coverage for all of their employees. Finally, the Legislature would need to amend s. 40.51 (7) to allow private employers to join the optional local government health insurance pool, if the private employers did not want to join the state pool.

With respect to local government employers, because the selection of the insurer is a mandatory subject of bargaining under the Municipal Employment relations Act, the Legislature would have to make that selection, as well as the benefits offered under the plan, either permissive or prohibited subjects of bargaining. If not, the employer would not have complete discretion in joining together with another employer to provide health care coverage to their represented employees, but would have to abide by any decision resulting from the collective bargaining process. *They'd have to negotiate pooling with their employees* *I don't want employer to have discretion —*

As to whether there are any legal impediments that would prohibit a city, village, town, or county from entering into an agreement with a private entity to jointly purchase medical insurance for their respective employees, we are not aware of any such impediments. In general, a city, village, town, county, and certain other local governmental units are authorized to "provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employees and officers and their spouses and dependent children." See s. 66.0137 (5) of the statutes. Also see ss. 59.52 (11) (c) and 62.61 of the statutes. In addition, local governmental units could enter into intergovernmental cooperation agreements under s. 66.0301 of the statutes to jointly purchase medical insurance for their employees.

In general, it is probably safe to say that, while there are no explicit prohibitions against different types of employers or other entities pooling together for the purpose of purchasing health insurance, the number, types, and other characteristics of the entities that do so will determine which, if any, requirements apply to the group.

We have not researched the potential effects of federal antitrust law. However, antitrust law would only be of any relevance to a purchasing pool if the pool were so large that it made up a significant portion of the health insurance market. If you think that may be a possibility, we can research the issue further for you.

Please let me know if you need more information or if you desire any legislation drafted in this area.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-4291/1

RAC: x:....

jld

Gen
2003 BILL

- 1 **AN ACT** *Gen* **...; relating to:** authorizing the group insurance board to permit public
2 sector and private sector employers to provide health care coverage to their
3 employees under health care coverage plans administered by the group
4 insurance board, authorizing the group insurance board to enter into
5 purchasing pool arrangements with any public or private sector employer in
6 this state to provide group health care coverage for state employees, and
7 making an appropriation. ✓

Analysis by the Legislative Reference Bureau

Under current law, the Group Insurance Board (GIB), which is attached to the Department of Employee Trust Funds, is required to contract on behalf of the state for the purpose of providing health care coverage to state employees. Many other public sector employers in this state may also participate in programs offered by GIB to provide health care coverage for their employees.

This bill provides that, beginning on the January 1 that first occurs after the bill's effective date, ✓ GIB may permit any private sector employer located in this state who employs at least two individuals to elect to have its employees receive coverage under any health care coverage plan offered to state employees or local government employees. Under the bill, the private sector employer may elect such coverage during any applicable enrollment period and subject to any conditions specified in *

BILL

the contract between GIB[✓] and the insurer and in rules promulgated for the administration of the health care coverage program. In addition, the bill authorizes GIB to enter into a purchasing pool arrangement with any other public or private sector employer located in this state to provide group health care coverage for state employees.[✓]

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.515 (1) (g)[✓] of the statutes is created to read:

2 20.515 (1) (g) *Benefit and coverage payments; private sector health care*
3 *coverage.* All moneys received from private sector employers under s.[✓] 40.515 who
4 provide coverage for their employees in a health care coverage plan under s. 40.51
5 (6) or (7),[✓] for the payment of benefits and the cost of administering benefits under s.
6 40.515.[✓]

7 **SECTION 2.** 40.03 (6) (a) 1.[✓] of the statutes is amended to read:

8 40.03 (6) (a) 1. Shall, on behalf of the state, enter into a contract or contracts
9 with one or more insurers authorized to transact insurance business in this state for
10 the purpose of providing the group insurance plans provided for by this chapter;[✓]~~or.~~
11 The group insurance board[✓] may enter into a purchasing pool arrangement with any
12 other employer or any private sector employer, as defined in s. 40.515 (1),[✓] to provide
13 group health care coverage for state employees.

History: 1981 c. 96 ss. 24, 32; 1981 c. 386; 1983 a. 247; 1985 a. 29; 1985 a. 332 ss. 53, 251 (1); 1987 a. 356; 1989 a. 31, 166, 323; 1991 a. 116, 141, 152, 269; 1993 a. 16; 1995 a. 302, 414; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 31.[✓]

14 **SECTION 3.** 40.51 (1) of the statutes is amended to read:

15 40.51 (1) The procedures and provisions pertaining to enrollment, premium
16 transmitted and coverage of eligible employees and employees eligible for health[✓]
17 care coverage under s. 40.515[✓] for health care benefits shall be established by contract
18 or rule except as otherwise specifically provided by this chapter.

BILL

1 **SECTION 4.** 40.51 (6) of the statutes, as affected by 2003 Wisconsin Act 33, is
2 amended to read:

3 40.51 (6) This state shall offer to all of its employees at least 2 insured or
4 uninsured health care coverage plans providing substantially equivalent hospital
5 and medical benefits, including a health maintenance organization or a preferred
6 provider plan, if those health care plans are determined by the group insurance
7 board to be available in the area of the place of employment and are approved by the
8 group insurance board. The group insurance board shall place each of the plans into
9 one of 3 tiers established in accordance with standards adopted by the group
10 insurance board. The tiers shall be separated according to the employee's share of
11 premium costs. The group insurance board may permit any private sector employer,
12 as defined in s. 40.515 (1), and any employer who would otherwise receive coverage
13 under sub. (7) to provide coverage for its employees under any health care coverage
14 plan offered under this subsection.

History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993 a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; 2001 a. 16, 38, 104; 2003 a. 33.

15 **SECTION 5.** 40.51 (7) of the statutes, as affected by 2003 Wisconsin Act 33, is
16 amended to read:

17 40.51 (7) Any employer, other than the state, may offer to all of its employees
18 a health care coverage plan through a program offered by the group insurance board.
19 Notwithstanding sub. (2) and ss. 40.05 (4) and 40.52 (1), the department may by rule
20 establish different eligibility standards or contribution requirements for such
21 employees and employers and may by rule limit the categories of employers, other
22 than the state, which may be included as participating employers under this
23 subchapter. The group insurance board may permit any private sector employer, as

BILL

SECTION 5

1 defined in s. 40.515 (1), to provide coverage for its employees under any health care
2 coverage plan offered under this subsection.

History: 1981 c. 96; 1983 a. 27; 1985 a. 29; 1987 a. 27, 107, 356; 1987 a. 403 s. 256; 1989 a. 31, 93, 121, 129, 182, 201, 336, 359; 1991 a. 39, 70, 113, 152, 269, 315, 1993 a. 450, 481; 1995 a. 289; 1997 a. 27, 155, 202, 237, 252; 1999 a. 32, 95, 115, 155; 2001 a. 16, 38, 104; 2003 a. 33.

3 **SECTION 6.** 40.515 of the statutes is created to read:

4 **40.515 Health care coverage for individuals employed by private**

5 **sector employers. (1)** In this section, "private sector employer" means any person
6 who is not an employer, as defined in s. 40.02 (28), who is located in this state, and
7 who employs at least 2 individuals.

8 (2) Beginning on the January 1 that first occurs after the effective date of this
9 subsection [revisor inserts date], the group insurance board may permit any
10 private sector employer to elect coverage for its employees under any health care
11 coverage plan offered under s. 40.51 (6) or (7), during any applicable enrollment
12 period, subject to any conditions established by contract or by rule under s. 40.51 (1).

13 (END)

Northrop, Lori

From: Little, Sharon
Sent: Tuesday, February 24, 2004 3:26 PM
To: LRB.Legal
Subject: Draft review: LRB 03-4291/1 Topic: Health insurance purchasing pools

It has been requested by <Little, Sharon> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-4291/1 Topic: Health insurance purchasing pools